



NEWS RELEASE
*Office of the
United States Attorney
for the
District of Nebraska*
Joe W. Stecher

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April 3, 2009

United States Attorney Joe W. Stecher and the U.S. Department of Labor and the Occupational Safety and Health Administration announce the following information for the attention of the media:

Event Triggering this Release:

United States Attorney Joe W. Stecher announced that the Midwest Farm Service Company, Inc. (Midwest Farm Service), was sentenced today for a criminal violation of regulations promulgated pursuant to the Occupational Safety and Health Act of 1970. Midwest Farm Service pled guilty and was sentenced on April 1, 2009, to an information charging the offense. The violation resulted in the death of Travis Ballinger, a laborer employed at Midwest Farm Service. Midwest Farm Services drills wells and irrigation systems throughout Nebraska, Wyoming and South Dakota. On March 7, 2007, near Scottsbluff, Nebraska, Travis Ballinger and two other laborers were attempting to remove dirt from a trench that was inaccessible by a backhoe. The trench was 3 feet wide by 8 feet deep and contained no protective support or shield system, nor was the trench sloped. This violated safety standards that required such excavations to be protected by an adequate protection system. While removing the dirt from the trench, a section of the wall of the trench collapsed and Travis Ballinger was completely covered by the dirt. He died of suffocation.

The criminal statute violated by Midwest Farm Service provides that a willful violation of an OSHA regulation which causes the death of an employee is a misdemeanor. United States Magistrate Judge David L. Piester imposed a \$25,000 fine and placed Midwest Farm Services on probation for two years under certain conditions, including a requirement that it comply with all OSHA rules and regulations, that it permit unrestricted access to all work sites to OSHA representatives for inspection purposes, and that it comply with the provisions of a separate administrative agreement with OSHA. The criminal fine is in addition to the civil penalties totaling \$80,000 previously paid by Midwest Farm Services.

U.S. Attorney Stecher again stressed the importance of enforcing workplace safety rules. He said "Protecting citizens from death or serious injury, particularly in the grain handling industry is as

important as any type of case the United States Attorney's office handles. We will be aggressive in prosecuting employers who do not provide a safe environment for their employees."

Name of Defendant: Midwest Farm Service Company, Inc.

Crime(s) Charged and Potential Penalty: Willful violation of OSHA regulation causing death of an employee; fine of up to \$500,000

Specific Location of Alleged Crime: Scottsbluff, Nebraska

Location of Arrest: N/A

Alleged Dollar Loss/Type and Quantity of Drug: N/A

Others Charged in Same Scheme: None

Relevant Dates:

Date of Alleged Crime: 03/07/2007

Federal Arrest Date: N/A

Date Complaint Issued: N/A

Information filed Date: 04/01/2009

Initial Appearance Date: 04/01/2009

Plea or Trial and Date(s): 04/01/2009

Sentencing Date: 04/01/2009

Next Court Hearing Type and Date: N/A

Assigned Magistrate Judge: David Piester

Initials of Assigned AUSA/Preparer of THIS Release: ALE